

Union Calendar No. 370

111TH CONGRESS
2^D SESSION

H. R. 6132

[Report No. 111-630]

To amend title 38, United States Code, to establish a transition program for new veterans, to improve the disability claim system, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 15, 2010

Mr. FILNER (for himself, Mr. MICHAUD, Ms. HERSETH SANDLIN, Mr. HALL of New York, and Mr. TEAGUE) introduced the following bill; which was referred to the Committee on Veterans' Affairs

SEPTEMBER 28, 2010

Additional sponsors: Mr. HASTINGS of Florida, Mr. WELCH, and Mr. VISCLOSKY

SEPTEMBER 28, 2010

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on September 15, 2010]

A BILL

To amend title 38, United States Code, to establish a transition program for new veterans, to improve the disability claim system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the “Vet-*
 5 *erans Benefits and Economic Welfare Improvement Act of*
 6 *2010”.*

7 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 8 *this Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Military transition program.

Sec. 3. Waiver of claim development period for claims under laws administered
by Secretary of Veterans Affairs.

Sec. 4. Tolling of timing of review for appeals of final decisions of Board of Vet-
erans’ Appeals.

Sec. 5. Exclusion of certain amounts from determination of annual income with
respect to pensions for veterans and surviving spouses and chil-
 dren of veterans.

Sec. 6. Extension of authority of Secretary of Veterans Affairs to obtain certain
income information from other agencies.

Sec. 7. VetStar Award program.

Sec. 8. Increase in amount of pension for Medal of Honor recipients.

Sec. 9. Conditions for treatment of certain persons as adjudicated mentally in-
competent.

9 **SEC. 2. MILITARY TRANSITION PROGRAM.**

10 (a) *IN GENERAL.*—*Chapter 41 of title 38, United*
 11 *States Code, is amended by inserting after section 4114 the*
 12 *following new section:*

13 **“§4115. Military transition program**

14 “(a) *ESTABLISHMENT; ELIGIBILITY.*—(1) *Subject to*
 15 *the availability of appropriations for such purpose, the Sec-*
 16 *retary of Veterans Affairs and the Assistant Secretary of*
 17 *Labor for Veterans’ Employment and Training shall jointly*

1 *carry out a program of training to provide eligible veterans*
2 *with skills relevant to the job market.*

3 “(2) *For purposes of this section, the term ‘eligible vet-*
4 *eran’ means any veteran whom the Secretary of Veterans*
5 *Affairs determines—*

6 “(A) *is not otherwise eligible for education or*
7 *training services under this title;*

8 “(B) *has not acquired a marketable skill since*
9 *being separated or released from service in the Armed*
10 *Forces;*

11 “(C) *was discharged under honorable conditions;*
12 *and*

13 “(D)(i) *has been unemployed for at least 90 days*
14 *during the 180-day period preceding the date of ap-*
15 *plication for the program established under this sec-*
16 *tion; or*

17 “(ii) *during such 180-day period received a*
18 *maximum hourly rate of pay of not more than 150*
19 *percent of the Federal minimum wage.*

20 “(b) *APPRENTICESHIP OR ON-THE-JOB TRAINING*
21 *PROGRAM.—The program established under this section*
22 *shall provide for payments to employers who provide for*
23 *eligible veterans a program of apprenticeship or on-the-job*
24 *training if—*

1 “(1) such program is approved as provided in
2 paragraph (1) or (2) of section 3687(a) of this title;

3 “(2) the rate of pay for veterans participating in
4 the program is not less than the rate of pay for non-
5 veterans in similar jobs; and

6 “(3) the Assistant Secretary of Labor for Vet-
7 erans’ Employment and Training reasonably expects
8 that—

9 “(A) the veteran will be qualified for em-
10 ployment in that field upon completion of train-
11 ing; and

12 “(B) the employer providing the program
13 will continue to employ the veteran at the com-
14 pletion of training.

15 “(c) *PAYMENTS TO EMPLOYERS.*—(1) Subject to the
16 availability of appropriations for such purpose, the Assist-
17 ant Secretary of Labor for Veterans’ Employment and
18 Training shall enter into contracts with employers to pro-
19 vide programs of apprenticeship or on-the-job training that
20 meet the requirements of this section. Each such contract
21 shall provide for the payment of the amounts described in
22 paragraph (2) to employers whose programs meet such re-
23 quirements.

24 “(2) The amount paid under this section with respect
25 to any eligible veteran for any period shall be 50 percent

1 *of the wages paid by the employer to such veteran for such*
2 *period. Wages shall be calculated on an hourly basis.*

3 “(3)(A) *Except as provided in subparagraph (B)—*

4 “(i) *the amount paid under this section with re-*
5 *spect to a veteran participating in the program estab-*
6 *lished under this section may not exceed \$20,000 in*
7 *the aggregate or \$1,666.67 per month; and*

8 “(ii) *such payments may only be made during*
9 *the first 12 months of such veteran’s participation in*
10 *the program.*

11 “(B) *In the case of a veteran participating in the pro-*
12 *gram on a less than full-time basis, the Assistant Secretary*
13 *of Labor for Veterans’ Employment and Training may ex-*
14 *tend the number of months of payments under subpara-*
15 *graph (A) and proportionally adjust the amount of such*
16 *payments, but the aggregate amount paid with respect to*
17 *such veteran may not exceed \$20,000 and the maximum*
18 *number of months of such payments may not exceed 24*
19 *months.*

20 “(4) *Payments under this section shall be made on a*
21 *quarterly basis.*

22 “(5) *Each employer providing a program of appren-*
23 *ticeship or on-the-job training pursuant to this section shall*
24 *submit to the Assistant Secretary of Labor for Veterans’*
25 *Employment and Training on a quarterly basis a report*

1 *certifying the wages paid to eligible veterans under such*
 2 *program (which shall be certified by the veteran as being*
 3 *correct) and containing such other information as the As-*
 4 *stant Secretary may specify. Such report shall be sub-*
 5 *mitted in the form and manner required by the Assistant*
 6 *Secretary.*

7 “(d) *AUTHORIZATION OF APPROPRIATIONS.—There is*
 8 *authorized to be appropriated to carry out this section*
 9 *\$10,000,000 for each fiscal year for which the program is*
 10 *carried out.*

11 “(e) *REPORTING.—The Secretary of Veterans Affairs,*
 12 *in coordination with the Assistant Secretary of Labor for*
 13 *Veterans’ Employment and Training, shall include a de-*
 14 *scription of activities carried out under this section in the*
 15 *annual report prepared submitted under section 529 of this*
 16 *title.*

17 “(f) *TERMINATION.—The authority to carry out a pro-*
 18 *gram under this section shall terminate on September 30,*
 19 *2016.”.*

20 “(b) *CLERICAL AMENDMENT.—The table of sections at*
 21 *the beginning of such chapter is amended by inserting after*
 22 *the item relating to section 4114 the following new item:*

“4115. Military transition program.”.

23 “(c) *CONFORMING AMENDMENTS.—(1) Subsection*
 24 *(a)(1) of section 3034 of such title is amended by striking*
 25 *“and 3687” and inserting “3687, and 4115”.*

1 (2) Subsections (a)(1) and (c) of section 3241 of such
 2 title are each amended by striking “section 3687” and in-
 3 serting “sections 3687 and 4115”.

4 (3) Subsection (d)(1) of section 3672 of such title is
 5 amended by striking “and 3687” and inserting “, 3687,
 6 and 4115”.

7 (4) Paragraph (3) of section 4102A(b) of such title is
 8 amended by striking “section 3687” and inserting “section
 9 3687 or 4115”.

10 (d) *EFFECTIVE DATE.*—The amendments made by this
 11 section shall take effect on the date that is one year after
 12 the date of the enactment of this Act.

13 **SEC. 3. WAIVER OF CLAIM DEVELOPMENT PERIOD FOR**
 14 **CLAIMS UNDER LAWS ADMINISTERED BY SEC-**
 15 **RETARY OF VETERANS AFFAIRS.**

16 (a) *IN GENERAL.*—Section 5101 of title 38, United
 17 States Code, is amended by adding at the end the following
 18 new subsection:

19 “(d)(1) If a claimant submits to the Secretary a claim
 20 that the Secretary determines is a fully developed claim,
 21 the Secretary shall provide—

22 “(A) the claimant with the opportunity to waive
 23 any claim development period otherwise made avail-
 24 able by the Secretary with respect to such claim; and

25 “(B) expeditious treatment to such claim.

1 “(2) If a person submits to the Secretary any written
2 notification sufficient to inform the Secretary that the per-
3 son plans to submit a fully developed claim and, not later
4 than one year after submitting such notification submits
5 to the Secretary a claim that the Secretary determines is
6 a fully developed claim, the Secretary shall provide expedi-
7 tious treatment to the claim.

8 “(3) If the Secretary determines that a claim sub-
9 mitted by a claimant as a fully developed claim is not fully
10 developed, the Secretary shall provide such claimant with
11 the notice described in section 5103(a) within 30 days after
12 the Secretary makes such determination.

13 “(4) For purposes of this section:

14 “(A) The term ‘fully developed claim’ means a
15 claim—

16 “(i) for which the claimant—

17 “(I) received assistance from a veterans
18 service officer, a State or county veterans
19 service organization, an agent, or an attor-
20 ney; or

21 “(II) submits, together with the claim,
22 an appropriate indication that the claim-
23 ant does not intend to submit any addi-
24 tional information or evidence in support of

1 the claim and does not require additional
2 assistance with respect to the claim; and

3 “(ii) for which the claimant or the claim-
4 ant’s representative, if any, each signs, dates,
5 and submits a certification in writing stating
6 that, as of such date, no additional information
7 or evidence is available or needs to be submitted
8 in order for the claim to be adjudicated.

9 “(B) The term ‘expeditious treatment’ means,
10 with respect to a claim for benefits under the laws ad-
11 ministered by the Secretary, treatment of such claim
12 so that the claim is fully processed and adjudicated
13 within 90 days after the Secretary receives an appli-
14 cation for such claim.”.

15 (b) *APPEALS FORM AVAILABILITY*.—Subsection (b) of
16 section 5104 of such title is amended—

17 (1) by striking “and (2)” and inserting “(2)”;
18 and

19 (2) by inserting before the period at the end the
20 following: “, and (3) any form or application re-
21 quired by the Secretary to appeal such decision”.

22 (c) *EFFECTIVE DATE*.—The amendments made by this
23 section shall apply with respect to claims submitted on or
24 after the date of the enactment of this Act.

1 **SEC. 4. TOLLING OF TIMING OF REVIEW FOR APPEALS OF**
2 **FINAL DECISIONS OF BOARD OF VETERANS'**
3 **APPEALS.**

4 (a) *IN GENERAL.*—Section 7266(a) of title 38, United
5 States Code, is amended—

6 (1) *by striking “In order” and inserting “(1)*
7 *Except as provided in paragraph (2), in order”; and*

8 (2) *by adding at the end the following new para-*
9 *graph:*

10 “(2)(A) *The 120-day period described in paragraph*
11 *(1) shall be extended upon a showing of good cause for such*
12 *time as justice may require.*

13 “(B) *For purposes of this paragraph, it shall be con-*
14 *sidered good cause if a person was unable to file a notice*
15 *of appeal within the 120-day period because of the person’s*
16 *service-connected disability.”.*

17 (b) *APPLICABILITY.*—

18 (1) *IN GENERAL.*—Paragraph (2) of section
19 7266(a) of such title, as added by subsection (a), shall
20 apply to a notice of appeal filed with respect to a
21 final decision of the Board of Veterans’ Appeals that
22 was issued on or after July 24, 2008.

23 (2) *REINSTATEMENT.*—Any petition for review
24 filed with the Court of Appeals for Veterans Claims
25 that was dismissed by such Court on or after July 24,
26 2008, as untimely, shall, upon the filing of a petition

1 *by an adversely affected person filed not later than*
 2 *six months after the date of the enactment of this Act,*
 3 *be reinstated upon a showing that the petitioner had*
 4 *good cause for filing the petition on the date it was*
 5 *filed.*

6 **SEC. 5. EXCLUSION OF CERTAIN AMOUNTS FROM DETER-**
 7 **MINATION OF ANNUAL INCOME WITH RE-**
 8 **SPECT TO PENSIONS FOR VETERANS AND**
 9 **SURVIVING SPOUSES AND CHILDREN OF VET-**
 10 **ERANS.**

11 *(a) CERTAIN AMOUNTS PAID FOR REIMBURSEMENTS*
 12 *AND FOR PAIN AND SUFFERING.—Paragraph (5) of section*
 13 *1503(a) of title 38, United States Code, is amended to read*
 14 *as follows:*

15 *“(5) payments regarding—*

16 *“(A) reimbursements of any kind (including*
 17 *insurance settlement payments) for—*

18 *“(i) expenses related to the repayment,*
 19 *replacement, or repair of equipment, vehi-*
 20 *cles, items, money, or property resulting*
 21 *from—*

22 *“(I) any accident (as defined in*
 23 *regulations which the Secretary shall*
 24 *prescribe), but the amount excluded*
 25 *under this subclause shall not exceed*

1 *the greater of the fair market value or*
2 *reasonable replacement value of the*
3 *equipment or vehicle involved at the*
4 *time immediately preceding the acci-*
5 *dent;*

6 *“(II) any theft or loss (as defined*
7 *in regulations which the Secretary*
8 *shall prescribe), but the amount ex-*
9 *cluded under this subclause shall not*
10 *exceed the greater of the fair market*
11 *value or reasonable replacement value*
12 *of the item or the amount of the money*
13 *(including legal tender of the United*
14 *States or of a foreign country) involved*
15 *at the time immediately preceding the*
16 *theft or loss; or*

17 *“(III) any casualty loss (as de-*
18 *fin ed in regulations which the Sec-*
19 *retary shall prescribe), but the amount*
20 *excluded under this subclause shall not*
21 *exceed the greater of the fair market*
22 *value or reasonable replacement value*
23 *of the property involved at the time*
24 *immediately preceding the casualty*
25 *loss; and*

1 “(ii) medical expenses resulting from
 2 any accident, theft, loss, or casualty loss (as
 3 defined in regulations which the Secretary
 4 shall prescribe), but the amount excluded
 5 under this clause shall not exceed the costs
 6 of medical care provided to the victim of the
 7 accident, theft, loss, or casualty loss; and

8 “(B) pain and suffering (including insur-
 9 ance settlement payments and general damages
 10 awarded by a court) related to an accident, theft,
 11 loss, or casualty loss, but the amount excluded
 12 under this subparagraph shall not exceed an
 13 amount determined by the Secretary on a case-
 14 by-case basis;”.

15 (b) CERTAIN AMOUNTS PAID BY STATES AND MUNICI-
 16 PALITIES AS VETERANS BENEFITS.—Section 1503(a) of
 17 title 38, United States Code, is amended—

18 (1) by striking “and” at the end of paragraph
 19 (10);

20 (2) by redesignating paragraph (11) as para-
 21 graph (12); and

22 (3) by inserting after paragraph (10) the fol-
 23 lowing new paragraph (11):

24 “(11) payment of a monetary amount of up to
 25 \$5,000 to a veteran from a State or municipality that

1 *is paid as a veterans' benefit due to injury or disease;*
 2 *and''.*

3 *(c) EFFECTIVE DATE.—The amendments made by sub-*
 4 *sections (a) and (b) shall apply with respect to determina-*
 5 *tions of income for calendar years beginning after October*
 6 *1, 2011.*

7 **SEC. 6. EXTENSION OF AUTHORITY OF SECRETARY OF VET-**
 8 **ERANS AFFAIRS TO OBTAIN CERTAIN INCOME**
 9 **INFORMATION FROM OTHER AGENCIES.**

10 *Section 5317 of title 38, United States Code, is amend-*
 11 *ed by striking “September 30, 2011” and inserting “Sep-*
 12 *tember 30, 2015”.*

13 **SEC. 7. VETSTAR AWARD PROGRAM.**

14 *(a) ESTABLISHMENT.—The Secretary of Veterans Af-*
 15 *fairs shall establish an award program, to be known as the*
 16 *“VetStar Award Program”, to annually recognize busi-*
 17 *nesses for their contributions to veterans' employment.*

18 *(b) ADMINISTRATION.—The Secretary shall establish a*
 19 *process for the administration of the award program, in-*
 20 *cluding criteria for—*

21 *(1) categories and sectors of businesses eligible*
 22 *for recognition each year; and*

23 *(2) objective measures to be used in selecting*
 24 *businesses to receive the award.*

1 (c) *VETERAN DEFINED.*—*In this section, the term “vet-*
 2 *eran” has the meaning given that term in section 101(2)*
 3 *of title 38, United States Code.*

4 **SEC. 8. INCREASE IN AMOUNT OF PENSION FOR MEDAL OF**
 5 **HONOR RECIPIENTS.**

6 Section 1562(a) of title 38, United States Code, is
 7 amended by striking “\$1,000” and inserting “\$2,000”.

8 **SEC. 9. CONDITIONS FOR TREATMENT OF CERTAIN PER-**
 9 **SONS AS ADJUDICATED MENTALLY INCOM-**
 10 **PETENT.**

11 (a) *IN GENERAL.*—Chapter 55 of title 38, United
 12 States Code, is amended by adding at the end the following
 13 new section:

14 **“§ 5511. Conditions for treatment of certain persons as**
 15 **adjudicated mentally incompetent**

16 *“In any case arising out of the administration by the*
 17 *Secretary of laws and benefits under this title, a person who*
 18 *is mentally incapacitated, deemed mentally incompetent, or*
 19 *experiencing an extended loss of consciousness shall not be*
 20 *considered adjudicated as a mental defective for any pur-*
 21 *pose without the order or finding of a judge, magistrate,*
 22 *or other judicial authority of competent jurisdiction that*
 23 *such person is a danger to himself or herself or others.”.*

1 **(b) CLERICAL AMENDMENT.**—*The table of sections at*
2 *the beginning of chapter 55 of such title is amended by add-*
3 *ing at the end the following new item:*

“5511. Conditions for treatment of certain persons as adjudicated mentally incompetent.”.

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